

**Response to the
Gender Recognition
Consultation Paper
Issued by the
Inter-Departmental
Work Group**

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Issue 1: Whether a gender recognition scheme should be introduced in Hong Kong (see near paragraph 5.49)

We invite views from the public on whether a gender recognition scheme should be introduced in Hong Kong to enable a person to acquire a legally recognised gender other than his or her birth gender.

A gender recognition scheme should be introduced in Hong Kong. The recognition scheme should not be limited to a binary model of male and female only. It should introduce a new gender X like some other countries to recognize the desire of some people who do not want to be classified as male or female. There are genderqueer people who do not perceive themselves to be male or female. There are also intersex people who do not biologically belong to any of these two categories and do want to identify themselves as male or female. The gender recognition ordinance should clearly define what constitutes male, female or neither and confer full legal status to them in their acquired gender as if they are cisgender persons. Without legal recognition of gender being conferred, all transgender people who have changed their ID cards are technically still violating all existing rules and regulations if they enter a place where segregation of sexes are required and they are being challenged by third parties. In the worse case where a transwomen is raped, the offender could be acquitted because of her legal status still being a man. It is therefore non-disputable that a gender recognition scheme would need to be introduced in Hong Kong to save transgender people and other genderqueer or gender non-conforming people from their current plight.

Issue 2: Requirement of medical diagnosis for gender recognition (see near paragraph 6.18)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be a requirement of a medical diagnosis of, for example, gender dysphoria or gender identity disorder, for gender recognition, and why.
- (2) If the answer to sub-paragraph (1) is “yes”, what kind of evidence should be provided by an applicant for gender recognition.

Medical diagnosis of gender dysphoria or gender identity disorder should go along with a gender recognition scheme. This would enable a proper classification of the people into the category of male, female or X. Unlike what most people think, transgender people would generally observe the dichotomy of gender into male and female, though their psychological perception of their gender is opposite to that of their birth gender. To achieve this, most of them are very eager to get rid of the observable differences in their body which should not belong to them and to behave and express themselves like members of their desired gender. For transwomen, it is

rare to see them continue to grow beard, keep flat chests, cut their hairs short, maintain manly complexion, keep coarse voice, act in a brutal manner, dress like tomboys, etc. The reverse is true for transman. They will try all effort to grow beard, flatten their chests, cut their long hairs, grow muscles, act manly, dress like gentlemen, etc. To achieve this, medical intervention like hormones or surgery would be generally required. In order to qualify for medical treatment, some form of diagnosis would be desirable. A responsible medical professional should not treat hormones or perform surgery on healthy organs to transgender individuals lightly without proper diagnosis. Hence, while we agree that gender dysphoria should be depathologised, we would insist that a proper diagnosis of gender dysphoria or gender identity disorder is needed. To avoid erroneous diagnosis, we would recommend stepping up in knowledge of our medical professionals towards gender dysphoria and gender identity disorder to go along with legal gender recognition. Medical diagnosis should be able to distinguish between people seeking medical assistance who are genuinely transgender against those who are genderqueer. The former should be granted recognition of their desired gender while the latter should be awarded the recognition of gender X or preserve their birth gender. The extent of medical intervention like hormones or surgery should also vary depending on the result of the medical diagnosis.

The criteria listed in DSM 5 should be used to determine if a person should be awarded the gender of their own desire or gender X, namely:

- ◆ A marked incongruence between one's experienced / expressed gender and primary and/or possessed or anticipated secondary sex characteristics
- ◆ A strong desire to be rid of or prevent the development of one's primary and / or secondary sex characteristics
- ◆ A strong desire for the primary and/or secondary sex characteristics of the other gender
- ◆ A strong desire to be of the other gender or some alternative gender different from one's assigned gender
- ◆ A strong desire to be treated as the other gender or some alternative gender different from one's assigned gender
- ◆ A strong conviction that one has the typical feelings and reactions of the other gender or some alternative gender different from one's assigned gender

Issue 3: Requirement of “*real life test*” for gender recognition (see near paragraph 6.25)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be a requirement of “*real life test*” for gender recognition, and why.
- (2) If the answer to sub-paragraph (1) is “yes”,

- (a) what should an applicant for gender recognition have undertaken in order to satisfy a requirement that he or she has undergone a “*real life test*”;
 - (b) what should be the duration of a “*real life test*”; and
 - (c) what kind of evidence should be provided by an applicant for gender recognition to show that he or she has undergone a “*real life test*” for the specified duration.
- (3) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be a requirement of intention on the part of the applicant to live permanently the acquired gender, and why.
- (4) If the answer to sub-paragraph (3) is “yes”, what kind of evidence should be required.

For transgender persons, we believe real life test is necessary to ensure that the person could understand the implications to their daily lives if they have to live in the other gender opposite to their gender assigned at birth. But for awarding gender X, we believe real life test is not necessary. The latter only means the person wants to live a fluid gender so it is entirely their choices to oscillate between male, female or neither. This becomes a human right issue and so should not necessitate a real life test.

However, to facilitate the daily lives of a person undergoing real life test, we believe suitable administrative procedures like awarding them a change in the gender marker of their ID cards and other personal documents should accompany the real life test. We need to make the real life test as close as possible to what cisgender persons experience. Hence, a provisional change in ID cards and other personal documents would be necessary to make the experience comparable and not to create unnecessary embarrassments and hassles to the persons concerned. The duration of real life test should vary from person to person. For some people, they start real life test on their own prior to seeking medical assistance and live comfortably in their desired gender. For these cases, insisting them to spend another two years would be redundant and unnecessary. But for those who have not come out and have never live in the new gender role, a two year period for real life test should be reasonable. At the end, it should be the expert judgement of the medical professionals to determine how long the real life test period should be. There is no need to set a hard target for the duration of the real life test.

In terms of evidence, the person should be able to testify that they are living in their desired gender 24 hours a day. Normally, a person should be either at work, at home or outside with their friends or alone. In order to provide evidence of successfully completing real life test, the medical professionals could interview their

family members, their friends and their superiors at work and assess how well they cope during the real life test. In the event that interviews are not feasible, a signed letter from relevant parties in the relevant letterheads could suffice. We should leave this to the medical professionals to make their expert judgement.

To award a person a legal gender opposite from the one assigned at birth, the person should have the desire to live in the alternative gender permanently for the rest of their life. We do not expect a transgender person to oscillate between the two genders without any valid reasons. If it is the desire of the person to maintain a fluid gender oscillating from one to the other, they should have chosen gender X which do not require real life test at all.

The successful completion of the real life test should be one key indicator that the person concerned would want to live for the rest of their life in their desired gender. Other indicators would be other medical or surgical interventions that the person have undergone prior to the gender recognition. Besides, psychological assessment could add further weight towards this determination. There is no need to fix any rules on this. The key is for them to demonstrate that they cope well. The relevant medical professionals should make their own expert judgement.

Issue 4: Requirement of hormonal treatment and psychotherapy for gender recognition (near paragraph 6.34)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be a requirement for hormonal treatment and/or other medical treatment(s) (eg, psychotherapy) for gender recognition, and why.
- (2) If the answer to sub-paragraph (1) is “yes”,
 - (a) what kind of treatment(s) should be required and/or to what effect the should the treatment(s) achieve; and
 - (b) what kind of evidence should an applicant for gender recognition provide on this.

We should not make hormonal treatment mandatory, though we realize that most transgender people would be very eager to go through hormonal treatment to the extent that some would even self-administer hormones to themselves before they are offered treatment at the public hospitals. The main reason being that they are very eager to transform their body complexion to resemble those of their desired gender. For example, for transwomen, they would want much softer body tissues, a slender body form with breasts and hips. They also want to stop their male urges and organ erection. For transmen, they would want more body hairs including

beard, coarser voices, more muscles and stop menstruation. These could not be accomplished with proper treatment of hormones. It is rare that a transgender person would not want any hormone replacement therapy at all. But this should be their own choice and should not be made mandatory, bearing in their own mind that in the lack of hormone treatment, it is much less likely that they could pass and blend well into their desired gender. The medical professionals should work with the transgender persons concerned to determine whether hormones should be administered. For people electing to become gender X, hormone treatment is completely unnecessary. But again, this is completely their own choice and they should work with the proper medical professionals to determine this need.

Regarding psychotherapy, we maintain that transgenderism or gender non-conformism are not sickness and so there is nothing that psychotherapy could help. People who are ambivalent with their gender might want to seek psychotherapy. But for transgender and genderqueer people, we do not believe psychotherapy is needed at all for the sake of gender recognition.

Proof of hormone treatment or psychotherapy are completely unnecessary. We should leave this completely voluntary. Most transgender people will opt for hormone treatment but not psychotherapy. The specialists attending to the transgender persons would know about this and no further evidence should be required.

On a related issue, we believe formal provision of hormone blockers to defer onset of puberty should be offered to transgender youths as an alternative. The growth of secondary sexual characteristics is often a source of grief for transgender youths. At present, this is only available at the Queen Elizabeth Hospital on a trial basis. The application of hormone blockers to transgender youths in Hong Kong has never been formalised.

Issue 5: Requirement of SRS and other surgical treatments for gender recognition (near paragraph 6.93)

We invite views from the public on the following matters:

- (1) Insofar as the practice in Hong Kong is concerned, full sex reassignment surgery requires removal of the original genital organs and construction of some form of genital organs of the opposite sex. In the event that a gender recognition scheme is to be introduced in Hong Kong, should there be a requirement for the applicant to have undergone partial/full sex reassignment surgery, and if so, why?
- (2) If the answer to sub-paragraph (1) is “yes”,
 - (a) regarding the extent of the surgery required, whether there should be a requirement of full sex reassignment surgery as currently adopted in Hong Kong, and why;

- (b) if the answer to sub-paragraph (a) is “no”, what type of partial sex reassignment surgery (ie, the extent of the partial surgery) would be sufficient, and why;
- (c) other than a partial/full sex reassignment surgery, what kind of surgery should be required (including non-genital surgery such as plastic surgery, reconstruction of chest, etc), and why;
- (d) what kind of evidence in this respect should be provided by an applicant for gender recognition;
- (e) whether sex reassignment surgery carried out in a country or territory outside Hong Kong should be recognised in Hong Kong for the purposes of gender recognition, and why; and
- (f) if the answer to sub-paragraph (e) is “yes”, what kind of evidence should be provided by the applicant.

SRS should be applicable to transgender people only. Genderqueer people would not require any SRS to transition. Similar to hormone treatment, we should not make SRS as a pre-requisite for gender recognition. In terms of need for SRS, there is generally a divergence between transwomen and transmen. The external appearance of the transgender people is normally the biggest concern for them in order for them to assimilate into their desired gender. For transwomen, long hairs, feminine faces, breasts, slender body shape, soft skin, removal of adams apple, body hairs, penis and testes are normally their main concerns. This is because these body parts could be seen and will affect other people’s perception on them if they continue to possess them like cisgender men. Furthermore, most of them hate the male urges they have and so they would eagerly opt for anti-androgen treatment before SRS. For transmen, short hairs, flat chests, muscular body, coarser skin and voices, beard are normally their main concerns. In addition, most of them hate their periods and would want to have them stopped even before SRS. When it comes to SRS, a small proportion of transwomen would opt to keep their male private parts because this is something not seen by others when they present themselves to others on streets. They are happy as long as there are no erection or male urges. But a much larger proportion of transmen would opt not to remove their ovaries and uterus, as long as menstruation is stopped. An even greater proportion would not want penis at all, as the penis would not be too functional after all. If they go for metoidioplasty, it will be completely non-functional. If they go for phalloplasty, it would only be partially functional even after adding an erectile device. Even then, it would be difficult to match the sensation of penile orgasms. Most transmen would elect not to take any risk on it.

The current requirements for mandatory SRS is too harsh for transmen. Most of them would not want to do it but they must do it in order to change the gender

marker on their ID cards. For transwomen, since most of them hate their penis and testes, so they would voluntarily go for SRS despite the pain they have to endure during the process. As a result, there are now several cases of judicial reviews all coming from transmen asking for reversal of the decision by the Commissioner of Registration refusing their application for changing the gender marker on their ID cards prior to SRS. Court hearing is now scheduled on Jan 9, 2018. Hopefully, this would reverse the harsh requirements on transmen well before a proper gender recognition ordinance is enacted.

We believe the criteria for gender recognition should be the desire to live in the desired gender for life and SRS should not be a mandatory requirement for gender recognition. A person could opt to have full set of surgery, partial set of surgery or no surgery at all to qualify for gender recognition. The medical professionals should determine the qualification of the persons concerned by referring to the six criteria set out in DSM 5. We are however aware that a person without any medical or surgical intervention at all would be much harder to pass well and live peacefully in an undisturbed mode in their desired gender. But this is after all a personal election by the person concerned. They have to understand the implication and endure the consequences should they elect to do so.

SRS performed in reputable overseas hospitals should be regarded as having the same effect of SRS performed locally. The Hospital Authority could recommend a list of these Hospitals to facilitate the gender recognition process. The queue for doing SRS in Hong Kong is now getting longer than ever, especially after Prince of Wales Hospital took over this responsibility from the Ruttonjee Hospital after the retirement of Dr Albert Yuen. Queueing for two years or more after being referred for SRS is commonplace nowadays. Allowing performance of SRS overseas would ease the queue and help many transgender people reduce their anxiety of waiting. At the same time, we believe the Government should allocate more resources into PWH to reduce the amount of waiting time.

For SRS carried out in the approved list of Hospitals, an original certificate issued by and signed the surgeon under the letterhead of the Hospital outlining the procedures undertaken should suffice. For SRS carried out outside the approved list of Hospitals, the transgender person could present a similar certificate from this Hospital, but an investigation on the authenticity of the procedures carried by a local specialist should follow. If the procedures listed on the certificate are both adequate and proven to be genuine, gender recognition should be granted.

Issue 6: Requirement of other medical treatments for gender recognition (near paragraph 6.94)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be any other medical requirements for gender

recognition, and why.

- (2) If the answer to sub-paragraph (1) is “yes”, what kind of further evidence in this regard should be required.

As said earlier, the only criteria for gender recognition should be the desire to live for life in the desired gender. No additional criteria should be required for gender recognition. The medical professionals should assess the suitability of gender recognition based on their assessment of the persons concerned using the DSM 5 criteria plus the desire above. Anything else is additional based on the needs of the transgender persons concerned. Besides hormone replacement therapy and SRS, the transgender person may opt for breast surgery, vocal cord surgery, adams apple removal, body hairs removal, facial feminisation or masculinisation surgery, etc by discussing their needs with their surgeons.

Issue 7: Residency requirement for gender recognition (near paragraph 7.34)

We invite views from the public on (in the event that a gender recognition scheme is to be introduced in Hong Kong) whether the scheme should be open to, for example, permanent residents of Hong Kong, non-permanent residents, and/or any other persons (such as visitors), and why.

We believe gender recognition should be open to all who has successfully gone through the assessment process now available at the Prince of Wales Hospital. If a non-resident elect to go for gender recognition in Hong Kong, it would be at their own risk if their home countries do not recognise the gender recognition process they have undergone in Hong Kong. Non-residents who elect to go through the local assessment process may have to pay a higher consultation fee in accordance to the current rules of the Hong Kong Hospital Authority. But once they have passed the assessment process, they should be granted recognition of their desired gender as long they are still living in Hong Kong.

For visitors or any other persons, we do not believe it makes sense for them to ask for gender recognition in Hong Kong. The assessment process along with the queueing takes years and there is no way that visitors could stay in Hong Kong for so long unless they are first granted non-resident status allowing them to stay in Hong Kong throughout their period of assessment.

Issue 8: Age requirement for gender recognition (near paragraph 7.45)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be a minimum age requirement for applying for gender recognition.
- (2) If the answer to sub-paragraph (1) is “yes”, what should be the minimum

age for the application: 12 years of age, 18 years of age, 21 years of age or another age; and the basis for choosing that age as the minimum age for the application.

- (3) If the answer to sub-paragraph (1) is “no”,
 - (a) whether a minor (under the age of 18 years)¹ should not be allowed to make an application unless with the consent of his or her parents and/or legal guardians, and why;
 - (b) whether there should be additional requirements for a minor applicant which would not be required for an adult applicant, and why; and
 - (c) if the answer to sub-paragraph (b) is “yes”, what kind of requirement(s) and evidence should be required.

We could continue to set the minimum age requirement at 18 like the current practice of the Prince of Wales Hospital. However, this should not be set hard in stone to allow for more flexibility. At present, the Queen Elizabeth Hospital is offering consultation to transgender youths and offer hormone blockers to them where necessary under a trial scheme. If there are exceptional cases where QE finds it beneficial to refer them for treatment by the GID Clinic at PWH, there should be no reason why this should be rejected. However, since they are still young, parental consent should be needed to affirm the referral. If a transgender youth being referred passes the assessment, gender recognition should be granted. Beyond this, there should be no further additional requirements.

Issue 9: Marital status requirement for gender recognition (near paragraph 7.63)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be requirements relating to marital status of the applicant, and why.
- (2) If the answer to sub-paragraph (1) is “yes”,
 - (a) whether an applicant for gender recognition should be unmarried or divorced before making an application, and why;
 - (b) if the answer to sub-paragraph (a) is “no”, whether a married applicant should be granted only an *interim* gender recognition

¹ The definition of “*minor*” is provided in section 3 of the Interpretation and General Clauses Ordinance (Cap 1).

status, which may be a new basis for dissolution of marriage in Hong Kong, and why; and

- (c) whether a full gender recognition status should be granted to a married applicant only after his or her marriage has been dissolved or his or her spouse dies, and why.

As said earlier, the only criteria for gender recognition should be the desire to live for life in the desired gender. No additional criteria should be required for gender recognition. The medical professionals should assess the suitability of gender recognition based on their assessment of the persons concerned using the DSM 5 criteria plus the desire above.

Many transgender people are engaged into marriage either due to late recognition of their transgender status or societal or family expectations as they reach the age of maturity. At present, the rules in Hong Kong do not require a person seeking SRS to be unmarried. There is no need to dissolve their marriages as long as the couple continue to treasure their relationships together. We do not believe we should take a retrograde step by asking the transgender persons seeking gender recognition to dissolve their marriages prior to gender recognition. Their marriages were legal when they married. It would be against Basic Law Article 37 and possibly Article 39 as well if we force them to dissolve their marriage involuntarily.

Issue 10: Parental status requirement for gender recognition (near paragraph 7.73)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be requirements relating to parental status of the applicant, and why.
- (2) If the answer to sub-paragraph (1) is “yes”,
 - (a) whether an applicant for gender recognition should *not* be a father or mother of any child, no matter the age of the child, and why;
 - (b) whether an applicant for gender recognition should not be a father or mother of any child below a certain age limit, and why;
 - (c) if the answer to sub-paragraph (b) is “yes”, what the age limit should be, and why.

As said earlier, the only criteria for gender recognition should be the desire to live for life in the desired gender. No additional criteria should be required for gender recognition. The medical professionals should assess the suitability of gender recognition based on their assessment of the persons concerned using the DSM 5

criteria plus the desire above.

Many transgender people are engaged into marriage either due to late recognition of their transgender status or societal or family expectation as they reach the age of maturity. At present, the rules in Hong Kong do not require a person seeking SRS to be childless or having their children reaching a certain age of maturity. This is a family matter that needs to be resolved by the transgender persons concerned before they decide to undergo SRS. The medical professionals taking care of the assessment would no doubt also take this into consideration while assessing the suitability of a person for SRS. We do not believe we should take a retrograde step by asking the transgender persons seeking gender recognition to be childless or having their children reaching a certain age of maturity.

Issue 11: Recognition of foreign gender change (near paragraph 7.87)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether a gender change which is recognised under the law of a country or territory outside Hong Kong should be recognised in Hong Kong, and why.
- (2) If the answer to sub-paragraph (1) is “yes”,
 - (a) whether the relevant countries and territories outside Hong Kong should be limited to those having certain requirements for gender recognition, and why;
 - (b) if the answer to sub-paragraph (a) is “yes”, what should those requirements be;
 - (c) what kind of evidence should be required to demonstrate that the applicant has been legally recognised in his or her acquired gender in that particular country or territory; and
 - (d) what kind of connection between the applicant and the foreign country or territory (such as citizenship in the country or territory where the gender change was recognised) should be required.

For visitors or non-residents, we believe it is sufficient to follow their gender markers as identified in their passports while they are in Hong Kong. Separate procedures to recognise a gender change granted in the countries outside Hong Kong would be too burdensome. However, if these people intend to eventually become permanent residents, they could elect to seek official gender recognition in Hong Kong. The Hong Kong Government should maintain a list of countries, states or locations where gender recognition in these places should be automatically recognized in Hong Kong. This list could be reviewed annually to take into considerations new rules enacted or

introduced in these places to assess the continued automatic applicability of their gender recognition in Hong Kong and to add new countries, states or locations into this automatic recognition list. Where a person's gender recognition status comes from a place outside of this list, a separate gender recognition process has to be initiated for the persons concerned. An interim recognition following the existing gender recognition status of their own countries could be granted with their ID cards and other personal documents changed to reflect this interim status. This interim recognition status could either be promoted to a legal recognition status or annulled depending on the results of the local assessment.

Issue 12: Other possible non-medical requirements for gender recognition (near paragraph 7.88)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether there should be any other non-medical requirement for gender recognition, and why.
- (2) If the answer to sub-paragraph (1) is "yes", what kind of further evidence in this regard should be required.

As said earlier, the only criteria for gender recognition should be the desire to live for life in the desired gender. No additional criteria should be required for gender recognition. The medical professionals should assess the suitability of gender recognition based on their assessment of the persons concerned using the DSM 5 criteria plus the desire above.

Issue 13: Type of gender recognition scheme, if adopted (near paragraph 8.10)

We invite views from the public on, in the event that a gender recognition scheme is to be introduced in Hong Kong, whether the scheme should be:

- (a) a legislative scheme, based on a (new) specific ordinance;
- (b) a judicial scheme, whereby issues related to gender recognition are considered by the courts on a case by case basis;
- (c) a scheme involving non-statutory, administrative measures only; or
- (d) a scheme comprising some combination of these approaches, and why.

We favour a legislative scheme. It will award legal gender status to a person once and for all without the need to make amendments to all underlying ordinances, rules or regulations where gender matters. Where exceptions are needed, these exceptions could be elicited in the newly enacted gender recognition ordinance. For example, some people may be concerned that a transwoman with a penis may scare

other women if they openly show their private organs in a facility segregated by sex. The gender recognition ordinance could state this explicitly to make this act illegal and punishable by law. Also, for facilities segregated by sex, the ordinance could also state that people electing gender X are not allowed to use these facilities, as they have voluntarily chosen themselves not to be male or female. They would have to go either into gender neutral facilities or facilities dedicated for disabled persons, if gender neutral facilities are not available. We believe any other schemes would be too cumbersome and too difficult to administer.

Issue 14: Adopting a scheme similar to overseas gender recognition scheme (near paragraph 8.16)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether the UK Gender Recognition Scheme is a suitable model to be adopted in Hong Kong, and why.
- (2) Whether there are any particular aspects of the UK model that should be adopted, or not adopted, or modified to suit the circumstances of Hong Kong, and why.
- (3) Whether another jurisdiction's gender recognition scheme (or any particular feature or features of any such scheme) would be more suitable to be adopted in Hong Kong than the UK model, and why.
- (4) Whether there is any particular gender recognition scheme in another jurisdiction (or any particular feature or features of any such scheme) that should not be adopted in Hong Kong, and why.

We believe the UK gender recognition scheme with some modifications would be the best for Hong Kong. Modifications that are required are as follows:

1. Need for introduction for a gender X for genderqueer and gender non-conforming individuals
2. Remove the need for need to dissolve a marriage prior to granting legal gender recognition like it was first enacted back in 2004.
3. Remove the need for a separate legal recognition panel. Referral for legal gender recognition by two medical professionals like the current practice would suffice.
4. Create a list of exceptional situations where the legal treatment of a person having undergone gender recognition would have to be specially handled. An example is to make it an offence for a transwoman with a penis to openly show their private organs in a sex segregated facility.

Issue 15: Authority to determine applications for gender recognition (near

paragraph 8.20)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether the authority to determine applications for gender recognition should be a statutory body performing quasi-judicial or judicial functions (such as the UK's GRP), an administrative body, the courts, or any professional body, and why.
- (2) If an authority other than the courts in sub-paragraph (1) is opted for, whether there are any particular aspects of that type of authority that should be adopted, or *not* adopted, or modified to suit the circumstances of Hong Kong, and why.
- (3) If an authority other than an administrative body and the courts in paragraph (2) is opted for, what type of members should be on the authority (with regard to the composition of the authority to determine gender recognition applications). For example, whether medical experts, such as psychiatrists, psychologists and surgeons, lawyers, other type(s) of members (eg, social workers) and/or overseas experts should be included, and why.

As explained under issue 13, we believe it is adequate for the medical professionals to determine if a person should be granted legal recognition of their desired gender. There is no need to create a separate body to do this. The Commissioner of Registration could be entrusted to issue the gender recognition certificate. Once this gender recognition certificate is issued, the person concerned could use it to apply for a new birth certificate. Gender history of the persons concerned should be locked and not disclosed to anybody without a valid reason to protect the privacy of these people.

Issue 16: Adopting a possible dual-track gender recognition scheme (near paragraph 8.35)

We invite views from the public on the following matters:

- (1) In the event that a gender recognition scheme is to be introduced in Hong Kong, whether a dual-track gender recognition scheme should be introduced with differing requirements (so that, for example, one person seeking full gender recognition for all legal purposes would have to satisfy stricter medical requirements (eg, gender reassignment surgery), while another person wishing to have only the sex marker changed on their Identity Card could be required to satisfy less stringent requirements (eg, proof of "*real life test*" for a specific period).
- (2) If the answer to sub-paragraph (1) is "yes", what should be the model of the

dual-track scheme, and why.

(3) If the answer to sub-paragraph (1) is “no”, why it is so.

We do not believe a dual track gender recognition is necessary. The new gender status should be granted to everyone who passes the assessment. The dual track model is essentially creating a group of second class citizens and this is not desirable. No country in the world is running a dual track model. This is a good indication that a dual track model isn't a good choice at all.